IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1829 of 1992

For Approval and Signature:

HON'BLE MR.JUSTICE M.S.SHAH
and
HON'BLE MR.JUSTICE D.A.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

RATILAL NAGJIBHAI NATHWANI

Versus

NAGAR PANCHAYAT

Appearance:

1. Special Civil Application No. 1829 of 1992

MR BB PARMAR for Petitioner No. 1

MR HARIN P RAVAL for Respondent No. 1

NOTICE SERVED for Respondent No. 2

MR UDAY R BHATT, AGP for Respondent No. 3

CORAM : HON'BLE MR.JUSTICE M.S.SHAH
and
HON'BLE MR.JUSTICE D.A.MEHTA

Date of decision: 07/07/2004

ORAL JUDGEMENT

(Per : HON'BLE MR.JUSTICE M.S.SHAH)

In this petition filed in March, 1992, a challenge was made to the constitutional validity of the

provisions of Section 180 of the Gujarat Panchayats Act, 1961. The petitioner had also challenged the action taken by the respondent-Nagar Panchayat for collecting octroi through ijara under the aforesaid provisions of the Gujarat Panchayats Act, 1961.

2. Similar challenge was raised in a number of petitions including Special Civil Application Nos. 2158 and 4176 of 1985. Both the aforesaid petitions came to be disposed of this Court's orders dated 19.12.2000 and 12.6.2001 respectively on the ground that the Act of 1961 had been repealed and replaced by the Gujarat Panchayats Act, 1993. In those petitions also the action of granting ijara was challenged, but since the period was over, the petitions were held to be infructuous in that respect also.

3. The same is the position in the facts of the present case also. In view of the repeal of the Gujarat Panchayats Act, 1961 and the enactment of the Gujarat Panchayats Act, 1993, the challenge to the provisions of Section 180 of the Gujarat Panchayats Act, 1961 does not survive. Similarly, the period for which the ijara was granted by the respondent-Nagar Panchayat for collection of octroi has run out by efflux of time. Moreover, the State Government has abolished levy of octroi in rural areas.

4. In view of the above, the petition has clearly become infructuous and is, therefore, dismissed as infructuous.

Rule is discharged with no order as to costs.

(M.S. Shah, J.)

(D.A. Mehta, J.)

sundar/-